

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ENVIRONMENTAL LAW & POLICY
CENTER, and NATIONAL WILDLIFE
FEDERATION

Plaintiffs,

Case No. 18-cv-12626

v.

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

UNITES STATES COAST GUARD,
and REAR ADMIRAL JOANNA M.
NUNAN in her official capacity as
Coast Guard District Commander,

Defendants.

**ORDER GRANTING ENBRIDGE ENERGY'S UNOPPOSED MOTION TO
INTERVENE**

On August 22, 2018, Plaintiffs Environmental Law & Policy Center (ELPC), and National Wildlife Federation (NWF) filed a complaint against Defendants United States Coast Guard and Rear Admiral Joanna M. Nunan in her official capacity as Coast Guard District Commander. Compl., ECF No. 1. Plaintiffs allege that non-party Enbridge Energy Partners L.P (Enbridge), a subsidiary of Enbridge Inc, is the operator of the Line 6B oil pipeline, which ruptured in 2010 in Marshall, Michigan along the Kalamazoo river. Compl. ¶ 6. Plaintiffs allege that Enbridge is also the operator of two crude oil pipelines known as “Line 5” under the Straits of Mackinac which are 65 years old, and which cannot operate without an approved Facility Response Plan (FRP). *Id.* ¶ 5, 7–8. The pipelines’ FRP must be consistent with the Coast Guard’s Area Contingency Plan (ACP). *Id.* ¶ 9. Plaintiffs allege that the Coast Guard’s ACP for northern Michigan is inadequate to respond to a worst-case discharge, and that Defendants wrongfully approved the (ACP) in violation of the Administrative Procedure Act (Count I) and

the Oil Pollution Act of 1990 (OPA) (Count II). *Id.* ¶ 101–110. According to Plaintiffs, because the ACP is inadequate, so is the FRP covering the oil pipelines. *Id.* ¶ 12.

On October 15, 2018, Enbridge moved to intervene as a defendant. ECF No. 12. As the owner and operator of Line 5, it appears that Enbridge is entitled to intervention as of right. *See* Fed. R. Civ. P. 24(a)(2). Moreover, the motion is unopposed. No party has responded to the motion and the time to do so has expired. *See* L.R. 7.1(e)(2)(B).

Accordingly, it is **ORDERED** that Enbridge’s motion to intervene, ECF No. 12, is **GRANTED**.

It is further **ORDERED** that Enbridge’s proposed answer, ECF No. 16, is accepted as filed.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: November 1, 2018

<p style="text-align: center;">PROOF OF SERVICE</p> <p>The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 1, 2018.</p> <p style="text-align: right;"><u>s/Kelly Winslow</u> KELLY WINSLOW, Case Manager</p>
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